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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/974,724
Filing Date: October 09, 2001
Appellant(s): TOYOSHIMA, AKIHIKO

John L. Rogitz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/4/07 appealing from the Office action mailed 8/10/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

09/972,183 and 09/972,781

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The amendment after final rejection filed on 9/4/07 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,393,470	KANEVSKY	5-2002
2002/0054224	WASULA	5-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 30 is rejected under 35 U.S.C. 103(e) as being unpatentable over Kanevsky et al. (US 6,393,470) in view of Wasula et al. (US 2002/0054224).

Regarding claim 30, Kanevsky discloses a digital camera system in FIG. 2 including a digital camera 200, a wireless transmitter 202 coupled to the camera, and a memory 201 for storing digital photographs from the camera (col. 3, line 64 – col. 4, line 9), data being automatically sent using the wireless transmitter to a remote location (storage server) via a network router (transmission server) when an amount of data stored in the memory reaches a threshold (FIG. 5 and col. 4, lines 32-46).

Kanevsky fails to disclose a threshold indicator indicating that a transfer operation is taking place.

However, in an analogous art, Wasula discloses a camera that includes a threshold indicator indicating that a transfer operation is taking place. See paragraph 31, lines 1-32.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify the system in Kanevsky by incorporating this feature taught by Wasula so that a user knows when the memory capacity has been exceeded.

(10) Response to Argument

Appellant argues that Wasula fails to teach a threshold indicator indicating that a transfer operation is taking place.

Examiner respectfully disagrees with Appellant's assertion. Wasula discloses that the firmware memory 28 in the digital still camera 10 contains image utilization fields indicating the desired conditions to be used during the transfer of a captured image from the digital camera to an external device. See FIG. 1 and paragraph 31, lines 1-7. Thus, the term "indicating" does appear in Wasula. These image utilization fields are part of a customized profile a user selects for appropriate transfer and utilization of the captured images to the host computer 40. See paragraph 27, lines 1-10. These desired conditions can be, for example, an event description or title of the captured image, a prefix for the image file name or an index field for the image file name. See paragraph 31, lines 8-12. Thus, since these desired conditions appear *during the transfer* of an image, the image utilization fields effectively indicate that a transfer operation is taking place.

The language of claim 30 of the present application does not indicate whether the "threshold indicator" is associated with the "threshold" reached by the amount of data stored in the memory (see lines 5-6 of claim 30). Accordingly, given the broadest reasonable interpretation of the claim, the image utilization fields in Wasula correspond to the threshold indicator in claim 30.

Wasula moreover discloses that when the transfer of the image from the digital camera 10 to the external device has finished, an option of audible notification can be selected to audibly notify the user that the images have been properly transferred. See paragraph 32, lines 1-5. Claim 30 does not disclose exactly what part of the transfer operation - for example, the beginning, middle or end - is referred to when the transfer operation is "taking place." The end of the transfer operation can also be considered the last part of the transfer operation. Accordingly, in addition to the image utilization fields, the audible notification in Wasula also corresponds to a threshold indicator indicating that a transfer operation is taking place.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Sam Bhattacharya

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